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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,982

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Kurt J. Fredrickson

KF-2004-01

9597

7590

02/02/2007

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EXAMINER

GABLER, PHILIP FRANCIS

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,982	<b>Applicant(s)</b> FREDRICKSON, KURT J.	
	<b>Examiner</b> Philip Gabler	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 5, 7-9, 19, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (US Patent Number 6273390).
3. Regarding claims 1, 4, 7, 19, and 24, Meyer (Figures 2, 3, and 8) discloses a mounting apparatus for a post, comprising: a stationary portion (3, etc.) having an attachment means or rod (43) angularly fixed and secured to a substructure (the ground) and extending from the substructure in a direction defining a fixed axis; an adjustable post mounting means or base (15) positioned above and resting on the stationary portion comprising a post mounting surface (surface of 25, 31) to which a tubular post may be attached and a semispherically curved downwardly facing bottom bearing surface (the undersurface of 19), the curved downwardly facing bottom surface having a slot (21) through which the attachment rod extends; a spacer or lower bearing (11) positioned beneath the post base and between the post base and the stationary portion, the lower bearing comprising a semispherical curved upwardly facing surface substantially corresponding in curvature to the curved downwardly facing bottom surface of the post base and in slidable engagement therewith forming a semispherical

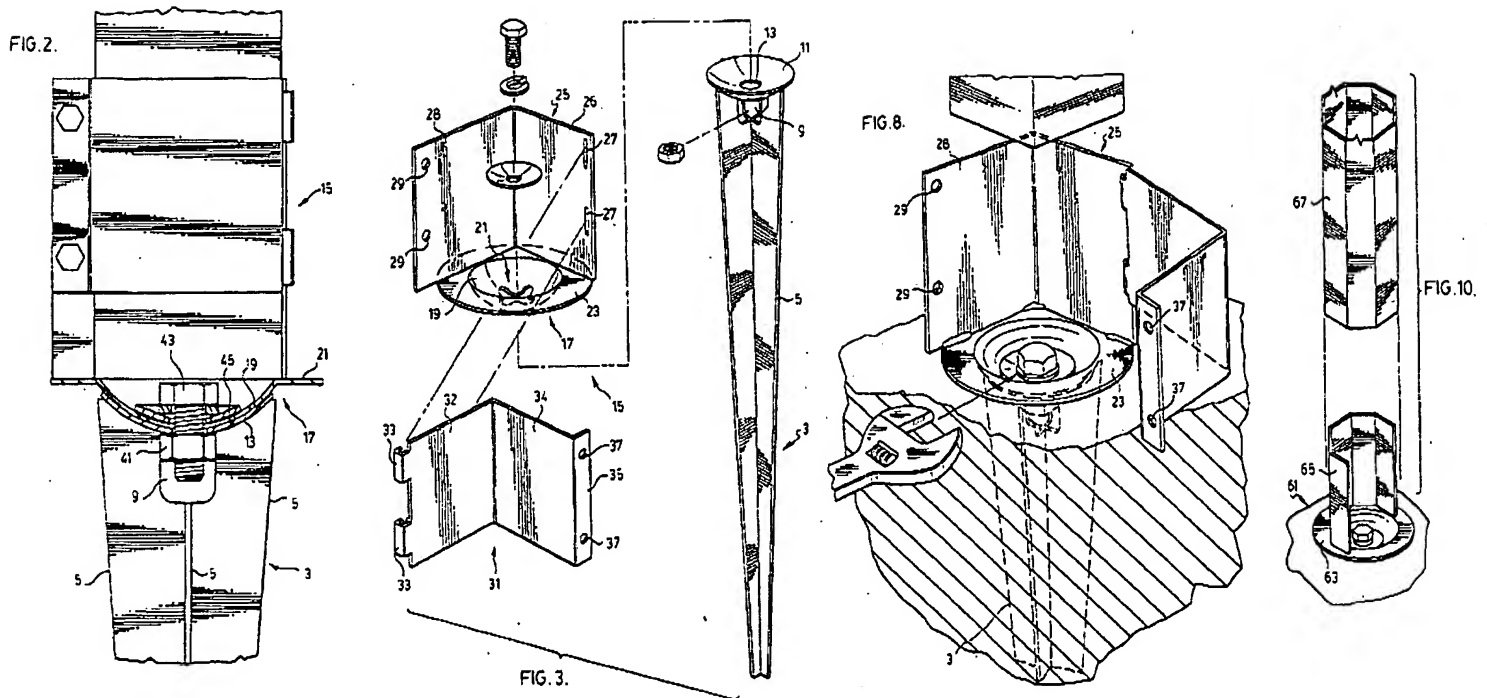
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joint capable of enabling angular adjustment of the post base with respect to the first axis to offset a vertical misalignment in the stationary portion within a predetermined range, and providing a center hole (13) through which the attachment rod extends; and means or fastener (41) to releasably secure the post base to the stationary portion and lock the post mount into position; wherein the post base may be rotated about the fixed axis and angularly offset therefrom, to enable a mounted post (see figures) to be angularly aligned and secured.

4. Regarding claim 5, Meyer discloses the post base comprises an exterior sidewall dimensioned to engage an inside wall of the post to be mounted (see Figure 10).

5. Regarding claim 8, Meyer further discloses the means to releasably secure the post base to the stationary portion comprises a threading engagement of the attachment rod in the substructure (the rod is threadingly engaged with the fastener within the substructure, see figures).

6. Regarding claim 9, Meyer further discloses an anchor (5) secured to the substructure to which the attachment rod is secured.



Meyer '390 Figures 2, 3, 8, and 10

**Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer.

Meyer discloses a mounting apparatus structurally as claimed including an attachment rod angularly fixed and secured to a substructure, a semispherical joint for mounting a post base to the substructure with the rod, and a fastener for securing the post in

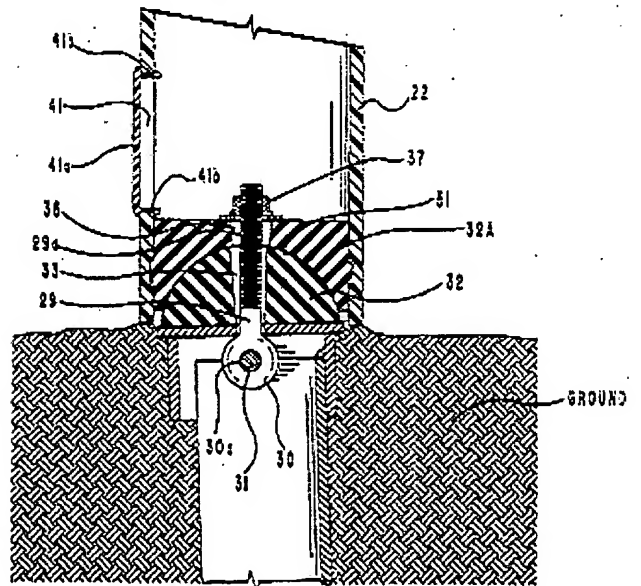
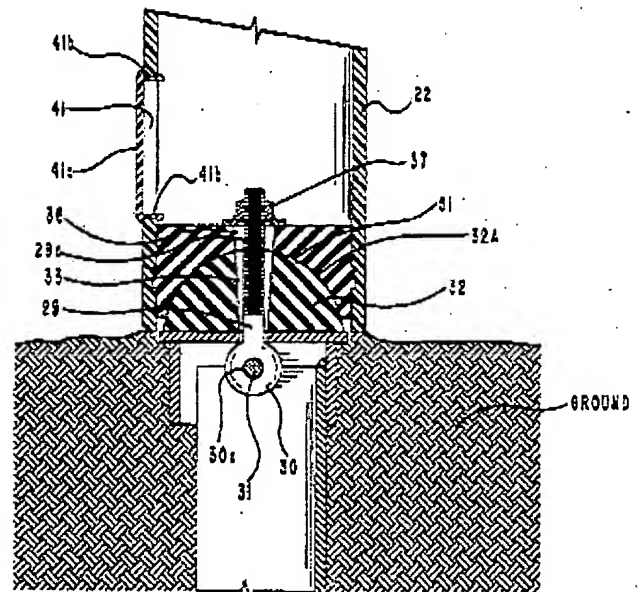
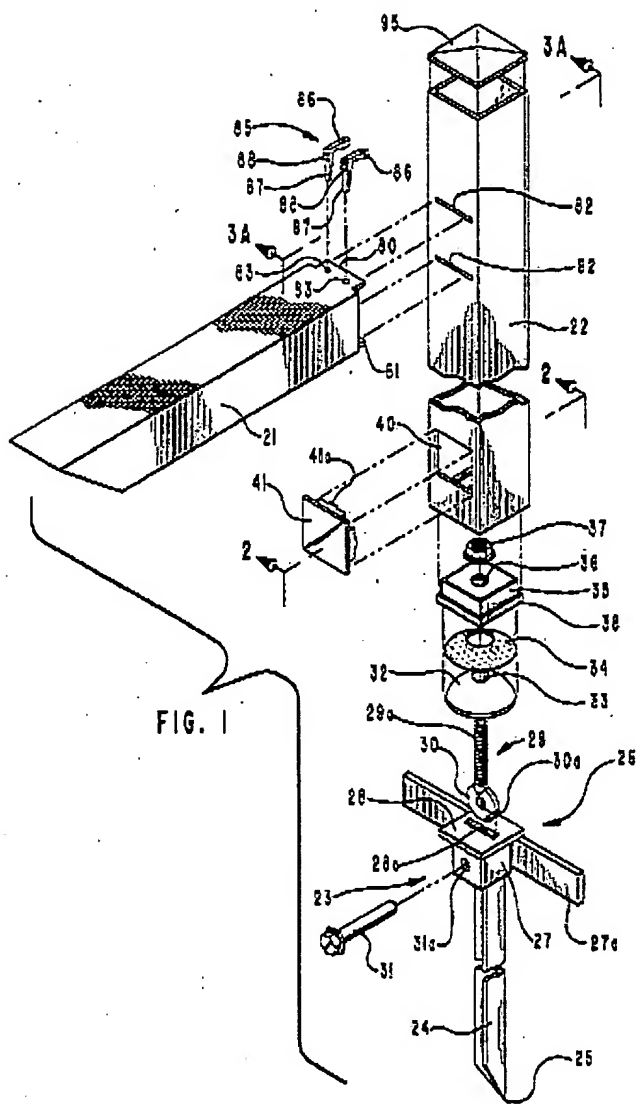
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position, but does not specifically disclose a "method" of mounting a post. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount a post as prescribed by Applicant's method because the normal use of the mounting apparatus would encompass the steps as set forth.

9. Claims 2, 3, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of West (US Patent Number 5404682).

10. Regarding claims 2 and 3, Meyer discloses an apparatus as recited in claim 1, including curved surfaces comprising substantially equivalent radiuses of curvature, but does not disclose the downwardly facing bottom surface as concave and the curved upwardly facing surface as convex (he in fact discloses the opposite). West (Figures 1, 7, and 7A) discloses a mounting apparatus for a pole including a base having a downwardly facing concave bottom surface (undersurface of 35, 51) and an upwardly facing convex surface (surface of 32). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to invert the orientation of Meyer's curved surfaces as taught by West based on the needs and desires of a user to account for packaging concerns, substructure makeup, post to be mounted, etc.

11. Regarding claim 10, Meyer discloses an apparatus as recited in claim 9, but does not disclose concrete or cement. West discloses a mounting apparatus with a concrete anchor (180) in which an attachment rod is embedded. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Meyer's device to be secured by embedding the rod in concrete as taught by West because of the rigid mount and secure placement this arrangement would provide.



West '682 Figures 1, 7, and 7A

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12. Claims 6, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Manning (US Patent Number 3204898).

13. Regarding claims 6 and 20, Meyer discloses a mounting apparatus as recited in claims 5 and 19 including an exterior surface/sidewall of the post mount capable of being used to engage an inside wall of a tubular post, but does not specifically disclose the surface/sidewall or post as round or cylindrical. Manning (Figure 2) discloses an adjustable post mount using a round/cylindrical post and post mount. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a round/cylindrical post and post mount in Meyer's apparatus as taught by Manning based on the needs and desires of a user for a particular post cross-section.

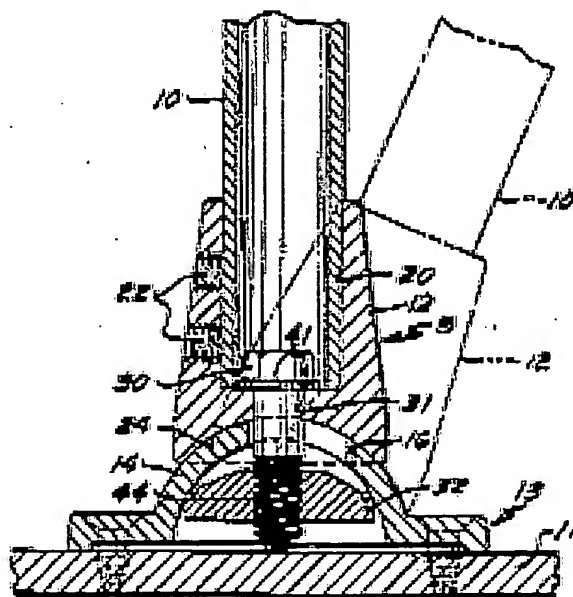
14. Regarding claim 14, Meyer discloses a mounting apparatus for a post, comprising: a mounting surface (3, etc.) secured to a substructure (the ground); and a threaded bolt (43) angularly fixed and secured to the substructure and protruding from the mounting surface in a direction defining a fixed axis; a substantially disc shaped lower bearing (11) positioned above the mounting surface, the disc shaped lower bearing comprising: a bottom surface, a smoothly curved top surface, and a hole (13) extending through the center of the disk to admit the threaded bolt; a substantially cup shaped post base (15, including 19, etc.) positioned above the lower bearing, the post base comprising: an exterior side wall (65, see Figure 10) dimensioned to engage an inner sidewall of a tubular post (67), and an exterior bottom surface (the undersurface of 19) comprising a curved surface adapted to slidingly engage the top surface of the lower bearing and having an elongate slot (21) extending therethrough to admit the



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threaded bolt; and a fastener (41) that engages the bolt to releasably secure the mount in position; wherein a mounted post may be angularly offset from the fixed axis in a desired direction by translating the bolt in the slot and rotating the post about the fixed axis. Meyer does not specifically disclose the side wall as cylindrical. Manning discloses an adjustable post mount using a cylindrical post and post mount.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a cylindrical post and post mount in Meyer's apparatus as taught by Manning based on the needs and desires of a user for a particular post cross-section.

**Fig. 2**

Manning '898 Figure 2

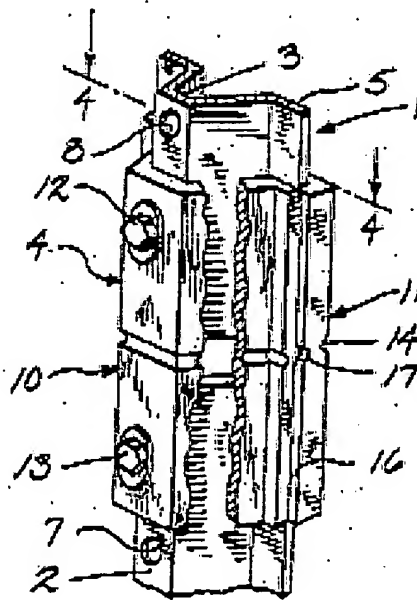
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15. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Manning and further in view of West. Meyer, modified by Manning as described above, discloses an apparatus as recited in claim 14, including semispherical curved surfaces comprising substantially equal radiuses of curvature, but does not disclose the bottom surface as concave and the top surface as convex (he in fact discloses the opposite). West discloses a mounting apparatus for a pole including a base having a downwardly facing concave bottom surface (undersurface of 35, 51) and an upwardly facing convex surface (surface of 32). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to invert the orientation of Meyer's curved surfaces, in the device as modified by Manning, as taught by West based on the needs and desires of a user to account for packaging concerns, substructure makeup, post to be mounted, etc.

16. Claims 11-13, 21, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Katt (US Patent Number 3820906). Meyer discloses a mounting apparatus as recited in claims 1, 19, and 24 as described above but does not disclose a post base designed to break away. Katt (Figure 2) discloses a post base (10, 11, etc.) comprised of grey iron (see for example column 2 lines 3-5) designed to break away in response to a predetermined or vehicle impact (see for example column 2 lines 6-10). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a break-away post base in Meyer's design as taught by Katt because this would allow control over how and where the apparatus would be damaged in case of an impact.

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17. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Manning and further in view of Katt. Meyer, modified by Manning as describe above, discloses a mounting apparatus as recited in claim 14 but does not disclose a post base designed to break away. Katt discloses a post base (10, 11, etc.) comprised of grey iron (see for example column 2 lines 3-5) designed to break away in response to a predetermined or vehicle impact (see for example column 2 lines 6-10). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a break-away post base in Meyer's design, previously modified by Manning, as taught by Katt because this would allow control over how and where the apparatus would be damaged in case of an impact.



Katt '906 Figure 2

***Response to Arguments***

18. Applicant's arguments, see remarks, filed 21 November 2006, with respect to the claim objections and 35 USC 112 claim rejections have been fully considered and are persuasive. The claim objections and 35 USC 112 claim rejections have been withdrawn.

19. The remainder of Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

20. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

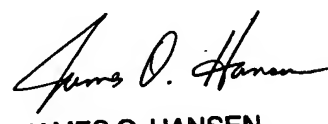
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG   
1/23/2007

  
JAMES O. HANSEN  
PRIMARY EXAMINER